

[COUNSEL LISTED ON NEXT PAGE]

**\*\*E-Filed 12/15/08\*\***

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

SEAN GUESS, on behalf of himself and all  
others similarly situated,

Plaintiff,

vs.

US BANCORP; US BANCORP  
INVESTMENTS; U.S. BANK N.A.; U.S.  
BANK d/b/a U.S. BANK HOME  
MORTGAGE; and DOES 1-50,

Defendants.

**Case No. C06-07535 – JF**

**The Honorable Jeremy Fogel**

**JOINT STIPULATION AND ~~[PROPOSED]~~-  
ORDER RE MOTION FOR CLASS  
CERTIFICATION BRIEFING SCHEDULE  
AND SETTLEMENT CONFERENCE**

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*Attorneys for Defendants*  
*US BANCORP, US BANCORP*  
*INVESTMENTS, U.S. BANK N.A., U.S. BANK*

1 WHEREAS Plaintiff filed his Motion for Class Certification Pursuant to Fed. R. Civ. P. 23  
2 ("Motion for Class Certification") on November 7, 2008;

3 WHEREAS Defendants' Opposition to Plaintiff's Motion for Class Certification  
4 ("Opposition") is currently due on December 22, 2008;

5 WHEREAS Plaintiff's Reply in support of Plaintiff's Motion for Class Certification  
6 ("Reply") is currently due on January 23, 2009;

7 WHEREAS the hearing on Plaintiff's Motion for Class Certification is currently set for  
8 February 6, 2009;

9 WHEREAS a settlement conference is currently set before Judge Richard Seeborg on  
10 December 22, 2008;

11 WHEREAS the parties are scheduled to submit settlement conference statements on  
12 December 15, 2008 in advance of the settlement conference before Judge Richard Seeborg;

13 WHEREAS the parties have agreed on a tentative settlement of the matter and are currently  
14 conferring on the final details of the settlement;

15 WHEREAS the parties wish to avoid incurring significant additional costs and fees in  
16 connection with the Motion for Class Certification and unnecessarily using judicial resources while  
17 they finalize their settlement agreement; and

18 WHEREAS should the parties be unable to agree on a final settlement, the parties will  
19 promptly so notify the Court;

20 IT IS THEREFORE STIPULATED AND AGREED, by and between the parties hereto  
21 through their attorneys of record, and subject to the approval of the Court, that, except for any  
22 activities necessary to finalizing a settlement, the case be stayed pending either a Court order  
23 dismissing the action or notification by the parties to the Court that they were unable to finalize a  
24 settlement. Specifically, the Parties request an order that:

25 (1) The December 22, 2008 settlement conference before Judge Seeborg be taken off  
26 calendar;

27 (2) The February 6, 2009 hearing date on Plaintiff's Motion for Class Certification be  
28 taken off-calendar;

(3) Further briefing on the Motion for Class Certification be stayed; and

(4) No later than January 12, 2009, the parties will either submit documents to the Court requesting approval of the settlement and/or dismissal of the case (as determined through the parties' agreement regarding settlement) or provide the Court with a report regarding the status of the settlement.

DATED: December 12, 2008

BARROWAY TOPAZ KESSLER  
MELTZER & CHECK, LLP

By:                     /s/                      
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Jessie A. Kohler  
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US BANCORP, US BANCORP  
INVESTMENTS, U.S. BANK N.A., U.S. BANK

SO ORDERED, this 15<sup>th</sup> day of December, 2008.

  
The Honorable Jeremy Fogel  
United States District Court Judge